IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 31396 of 2006(K)

PETITIONER:

M/S.SOUTHPAW SECURITY AND MANTECH
SERVICE PVT.LTD., 30/287A IST FLOOR,
POST OFFICE BUILDING, POONITHURA P.O., ERNAKULAM,
REPRESENTED BY ITS MANAGING DIRECTOR,
COMMANDER R.G.VIJAYAN (RETD).

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR
SRI.DIPU.R
SMT.MERCIAMMA MATHEW

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTATION,
BY ITS SECRETARY, MINISTRY OF LABOUR,
SHARANSATTI BHAVAN, NEW DELHI.

2. CHIEF PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
BHAVISHYA NIDHI BHAVAN, 14, BIKAJICAMA PLACE,
NEW DELHI.

3. REGIONAL PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE, 36/685 A,
BHAVISHYA NIDHI BHAVAN, KALOOR, KOCHI.

4. BHARATH SANCHAR NIGHAM LTD.(BSNL),
REPRESENTED BY ITS CHIEF GENERAL MANAGER,
TRIVANDRUM.

BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, P.F.
SRI.C.S.RAMANATHAN, SC, BSNL
SRI.C.K.SASI, CGC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD

ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

APPENDIX (WP(C) NO.31396 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of letter dtd.24.12.98 sent by DGR.

Ext.P2: Copy of agreement dtd.1.2.99.

Ext.P3: Copy of sample agreement dtd.1.4.2002.

Ext.P4: Copy of document styled as "DGR instructions"

Exts.P5, P5(a),P5(b): Copies of letters dtd.18.3.00,23.4.99 and 18.5.99.

Exts.P6,P6(a),P6(b),P6(c): Copies of letter dtd. 22.2.01, 7.1.02, 24.9.95 and 15.6.05.

Ext.P7: Tabulated list showing the details of the bill amounts and the outstanding balance for the period from 1.3.01 to 31.3.06.

Ext.P8: Copy of the notice dtd.6.11.06.

Ext.P9: Copy of notice under Section 14B of the Act.

Ext.P10: Copy of the representation dtd.15.11.06.

Ext.P11: Copy of receipt dtd.3.11.2007.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 31396 OF 2006 - K

Dated this the 1st day of August, 2007

J U D G M E N T

The petitioner challenges Exts.P8 and P9 proceedings by which the petitioner has been directed to pay interest under Section 7Q and damages under Section 14B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952. At the time of admission, an interim order was passed to the following effect on 8.12.2006:-

> "Since appeal is pending against damages awarded against 14(B), petitioner can file appeal and pursue the same. So far as recovery of interest u/S 7Q of the Act is concerned, there will be stay against recovery for six weeks on petitioner remitting 50% of the interest amount within one month."

Subsequently, the order was modified in I.A.No.1678/2007 as follows:-

> "Heard. The petitioner prays for instalment facility to pay the amount towards provident fund dues. The learned counsel for the Provident Fund Commissioner opposes the

> application.
>
> The petitioner may pay the balance amount in five equal monthly instalments. The first instalment shall be paid on or before 1.3.2007. The subsequent instalments shall be paid without fail, on or before the 1st of the succeeding months. If there is any failure to pay the amount due as directed above, the provident fund authorities can proceed with the recovery proceedings. In view of the above order, further recovery proceedings concerning interest under Section 7Q of the E.P.F. & M.P.Act will remain in abeyance till 1.3.2007. Needless to say, thereafter the stay will remain in force till the petitioner regularly remits the instalments as permitted under this interim order."

Now, both the parties admit that interest under Section 7Q has been completely paid off. In the above circumstances, it is for the petitioner to move the Tribunal for interim orders in the matter. Accordingly, I direct the petitioner to move the Tribunal for interim orders within one month from today. If the petitioner moves the Tribunal as above, the further recovery of Section 14B damages shall be kept in abeyance on condition that the petitioner pays an

amount of **Rupees one lakh** within two months from today.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007